

HOUSE BILL No. 1254

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-37.

Synopsis: Violence free community fee. Establishes a violence free community fund. Provides that the fund is to be funded by a \$200 violence free community fee to be collected in specified felony cases that involve the use of a firearm or a deadly weapon. Requires the fee to be distributed to prosecuting attorneys to: (1) reduce the unlawful use of firearms; (2) promote firearm safety training; (3) reduce community violence; and (4) provide equipment for law enforcement agencies.

Effective: July 1, 2005.

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January 6, 2005, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1254

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 33-37-4-1, AS AMENDED BY P.L.85-2004,
2 SECTION 16, AND AS AMENDED BY P.L.95-2004, SECTION 4, IS
3 CORRECTED AND AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) For each action that results in
5 a felony conviction under IC 35-50-2 or a misdemeanor conviction
6 under IC 35-50-3, the clerk shall collect from the defendant a criminal
7 costs fee of one hundred twenty dollars (\$120).
8 (b) In addition to the criminal costs fee collected under this section,
9 the clerk shall collect from the defendant the following fees if they are
10 required under IC 33-37-5:
11 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
12 IC 33-37-5-4).
13 (2) A marijuana eradication program fee (IC 33-37-5-7).
14 (3) An alcohol and drug services program user fee
15 (IC 33-37-5-8(b)).
16 (4) A law enforcement continuing education program fee
17 (IC 33-37-5-8(c)).



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(5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).

(6) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(7) A child abuse prevention fee (IC 33-37-5-12).

(8) A domestic violence prevention and treatment fee (IC 33-37-5-13).

(9) A highway work zone fee (IC 33-37-5-14).

(10) A deferred prosecution fee (IC 33-37-5-17).

(11) A document storage fee (IC 33-37-5-20).

(12) An automated record keeping fee (IC 33-37-5-21).

(13) A late payment fee (IC 33-37-5-22).

(14) A sexual assault victims assistance fee (IC 33-37-5-23).

(15) *A judicial administration fee under IC 33-37-5-21.2.*

~~(15)~~ (16) *A judicial insurance adjustment fee under IC 33-37-5-25.*

(17) A violence free community fee (IC 33-37-5-26).

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

(1) an initial user's fee of fifty dollars (\$50); and

(2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

(1) The pretrial diversion fee.

(2) The marijuana eradication program fee.

(3) The alcohol and drug services program user fee.

(4) The law enforcement continuing education program fee.

(5) The violence free community fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

(1) The clerk shall apply the partial payment to general court costs.

(2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk

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shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.

(3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.

(4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.

(5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 2. IC 33-37-5-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 26. In an action in which a person has been convicted of a felony under:**

(1) IC 35-47 that involves:

(A) the use, delivery, sale, or pointing of a firearm;

(B) the unauthorized boarding of an aircraft with a firearm;

(C) the providing of a firearm to a child; or

(D) recklessly permitting a child to possess a firearm;

(2) IC 35-42-1 that includes the use of a deadly weapon or a firearm as an element of the offense;

(3) IC 35-42-2 that includes the use of a deadly weapon or a firearm as an element of the offense;

(4) IC 35-42-3 that includes the use of a deadly weapon or a firearm as an element of the offense;

(5) IC 35-42-4 that includes the use of a deadly weapon or a firearm as an element of the offense; or

(6) IC 35-42-5 that includes the use of a deadly weapon or a firearm as an element of the offense;

the clerk shall collect from the convicted person a violence free community fee of two hundred dollars (\$200). The clerk of the court shall transfer a fee collected under this section to the county auditor for deposit in the county user fee fund established under IC 33-37-8-5.

SECTION 3. IC 33-37-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A county user fee fund is established in each county to finance various program services. The county fund is administered by the county auditor.

(b) The county fund consists of the following fees collected by a clerk under this article and by the probation department for the juvenile

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court under IC 31-34-8-8 or IC 31-37-9-9:

- (1) The pretrial diversion program fee.
- (2) The informal adjustment program fee.
- (3) The marijuana eradication program fee.
- (4) The alcohol and drug services program fee.
- (5) The law enforcement continuing education program fee.
- (6) The deferral program fee.
- (7) The jury fee.
- (8) The drug court fee.

(9) The violence free community fee.

(c) All of the jury fee and two dollars (\$2) of a deferral program fee collected under IC 33-37-4-2(e) shall be deposited by the county auditor in the jury pay fund established under IC 33-37-11.

SECTION 4. IC 33-37-8-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. (a) Each county auditor shall establish a violence free community fund to receive funds deposited in the county user fee fund from the collection of the violence free community fee.**

(b) Upon receipt of monthly claims from a prosecuting attorney, the county fiscal body shall adopt an ordinance to appropriate the funds in the violence free community fund to the prosecuting attorney.

(c) The funds appropriated under subsection (b) must be used by the prosecuting attorney to do the following:

- (1) Reduce the unlawful use of firearms.**
- (2) Promote firearm safety training.**
- (3) Promote the reduction of violence in the community.**
- (4) Provide equipment to county and local law enforcement agencies.**

(d) A county fiscal body may not transfer funds previously appropriated to the prosecuting attorney under subsection (b).

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